

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BARNSTABLE SUPERIOR COURT

C.A. No.:

Kenneth Tillman  
Plaintiff

v.

BARNSTABLE COUNTY SHERIFF'S OFFICE,  
Defendants

**COMPLAINT**

NOW, comes the Plaintiff, Kenneth Tillman, and for his Complaint, says, as follows:

1. The Plaintiff, Kenneth Tillman, is an individual, who resides in Centerville, Barnstable County, Massachusetts.
2. The Defendant is the Barnstable County Sheriff's Office, which maintains its principle office at 6000 Sheriff's Place, Bourne, Barnstable County, Massachusetts.
3. On or about May 5, 2017 Plaintiff served a notice of Personal Injury Claim upon the Defendant, along with the Barnstable County Commissioners and the County Administrator for Barnstable County. A true and correct copy of the same is attached hereto as Exhibit "A".
4. On or about May 17, 2017, the Defendant, through its counsel, acknowledged receipt of Exhibit A. A true and correct copy of the acknowledgment letter is attached hereto as Exhibit "B".



1

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5. The Plaintiff's claim was the subject of a final denial by the Defendants within the meaning of M.G.L. ch. 258, §4.
6. On or about August 18, 2016 the Plaintiff Kenneth Tillman was in the custody of the Barnstable County Sheriff's Office as an inmate in the Barnstable County House of Corrections.
7. While standing in line to receive prescribed medication the Plaintiff sneezed.
8. An employee of the defendant, one Deputy Aaron Vacca needlessly commented within full hearing distance of other inmates that the Plaintiff was "spreading aids."
9. The Plaintiff filed an inmate grievance with the Sheriff's office. After investigation the Sheriff's Office found Deputy Vacca acted inappropriately and ordered him to apologize to the Plaintiff.
10. Deputy Vacca apologized to the Plaintiff for his remarks.
11. Deputy Vacca was negligent, careless and thoughtless in commenting that the Plaintiff was "spreading aids."
12. Deputy Vacca and the Defendant knew or should have known that having aids, along with the risk of spreading aids, was a stigma among the inmates and could cause repercussions against the Plaintiff.
13. The Defendant Barnstable County Sheriff's Office is responsible and liable for the negligence of its employees while in the performance of their employment.
14. Deputy Vacca was in the course of his employment when he made the "spreading aids" comment.



2

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15. As a direct and proximate result of the negligence of the Defendant, as set forth above, the Plaintiff suffered personal injury, including damage to his standing and reputation among the other inmates and was otherwise harmed and damaged.

WHEREFORE, Plaintiff demands judgment in his favor and against the Barnstable County Sheriff's Office in an amount to be determined by the Court, together with costs, interest and such other relief as the Court deems fair and reasonable.

**JURY DEMAND**

The Plaintiff demands a Trial by Jury as to all issues so triable herein.

Respectfully submitted  
PLAINTIFF  
By his counsel,

/s/ John C. Manoog, III  
/s/ Paul R. Kelley, Esq.  
John C. Manoog, III, BBO# 567481  
Paul R. Kelley, Esq., BBO#265700  
Law Offices of John C. Manoog, III  
450 South Street  
Hyannis, MA 02601  
508-775-0088



3

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**EXHIBIT A**



**THE LAW OFFICES**  
*of*  
**JOHN C. MANOOG III**

*Hyannis Office*  
450 South Street  
Hyannis, MA 02601  
Phone: (508) 775-0088  
Fax: (508) 775-0176

*Please direct all correspondence to the Hyannis office.*

*Plymouth Office*  
4 Court Street, Suite 212  
Plymouth, MA 02360  
Phone: (508) 747-9888  
Fax: (508) 746-0668

May 5, 2017

***Via Certified Mail - Return Receipt Requested***  
***Article No.: 7016 3010 0000 8475 2893***

James M. Cummings, Sheriff  
Barnstable County Sheriff's Department  
6000 Sheriff's Place  
Buzzards Bay, MA 02542-1344

**RE: Presentment of Claim Pursuant to M.G.L. c. 258 §4**  
**Our Client:           Kenneth Tillman**  
**Date of Loss:         August 18, 2016**  
**Location of Loss:    Barnstable House of Corrections**

Dear Sheriff Cummings:

As you may be aware, this office represents Kenneth Tillman relative to his claims for personal injuries while an inmate at Barnstable House of Corrections, which occurred on or about August 18, 2016. Please take this letter as my client, Kenneth Tillman's, formal demand for settlement and presentment of claim pursuant to M.G.L. c. 258, §4.

**Summary of Facts:**

On or about August 18, 2016, Kenneth Tillman was an inmate at Barnstable House of Corrections. While he was standing on the medication line waiting to receive his medication, Mr. Tillman sneezed. Deputy Vacca, who was monitoring the line and heard Mr. Tillman sneeze, loudly stated that Mr. Tillman was spreading AIDS. Deputy Vacca made an additional comment regarding Mr. Tillman's health to the nurse on the medication line.

According to Mr. Tillman, Deputy Vacca made two other AIDS comments in front of other inmates. As a result, Mr. Tillman was constantly questioned by other inmates concerning whether or not he had AIDS. In addition, several other inmates also told Mr. Tillman that they had heard he had AIDS.



5

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James M. Cummings, Sheriff  
Barnstable County Sheriff's Department  
May 5, 2017  
Page 2

Mr. Tillman was extremely upset by the comments made by Deputy Vacca and by the numerous questions he endured by other inmates asking about his AIDS. Mr. Tillman completed an Inmate Grievance Form, grievance number 15008760. The matter was considered closed after just an apology was made by Deputy Vacca. Mr. Tillman does not consider that an apology should have been the only measure taken by the Grievance Coordinator.

Based on Mr. Tillman's personal injuries, pain and suffering, I hereby demand the sum of Fifty Thousand Dollars (\$50,000.00), on behalf of Mr. Tillman.

Please contact me once you have had an opportunity to review the enclosed. In any event, please respond to this presentment letter within the time set forth in M.G.L. c. 258, § 4.

Thank you for your anticipated cooperation in this matter. I look forward to speaking with you soon.

Sincerely,



John C. Manoog, III

JCM/sbr

cc: *Via Certified Mail - Return Receipt Requested Article No.: 7016 3010 0000 8475 2909*  
Sheila R. Lyons, County Commissioner, Barnstable County, P.O. Box 427, Barnstable MA 02630-0427  
*Via Certified Mail - Return Receipt Requested Article No.: 7016 3010 0000 8475 2916*  
Mary Pat Flynn, County Commissioner, Barnstable County, P.O. Box 427, Barnstable MA 02630-0427  
*Via Certified Mail - Return Receipt Requested Article No.: 7016 3010 0000 8475 2923*  
Leo G. Cakounes, County Commissioner, Barnstable County, P.O. Box 427, Barnstable MA 02630-0427  
*Via Certified Mail - Return Receipt Requested Article No.: 7016 3010 0000 8475 2930*  
Michael Brillhart, County Administrator, Barnstable County, P.O. Box 427, Barnstable MA 02630-0427  
*Via Certified Mail - Return Receipt Requested Article No.: 7016 3010 0000 8475 2947*  
Maura Healey, Massachusetts Attorney General, One Ashburton Place, Boston, MA 02108-1518





**EXHIBIT B**



7

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**ACCREDITED**American  
Correctional  
AssociationCommission on  
Accreditation of  
Rehabilitation  
Facilities**OFFICE OF THE SHERIFF  
BARNSTABLE COUNTY**

The Commonwealth of Massachusetts

6000 Sheriff's Place, Bourne, MA 02532

508.563.4300 Fax: 508.563.4574

BCSO@bsheriff.net

**Sheriff  
James M. Cummings**

May 17, 2017

John C. Manoog  
Law Office of John C. Manoog, III  
450 South Street  
Hyannis, MA 02601

RE: Kenneth Tillman

Dear Attorney Manoog:

I am in receipt of you May 5, 2017 letter to the Sheriff's Office regarding Kenneth Tillman. Your letter does not meet the requirements for presentment under the Massachusetts Tort Claims law. The law requires that you set out you claim against the Sheriff's Office with enough specificity that it can be investigated. Quite frankly, I am not sure who you intend to sue and why. I would appreciate it if you would clarify who the potential defendant is and under what theory of law you intend to pursue your claim.

It is Sheriff's Office policy to investigate claims and then affirm or deny them based on that investigation. I can do neither on the letter you have provided.

Thank you for your kind attention to this matter.

Yours truly,

Matthew J. Murphy  
General Counsel  
Barnstable County Sheriff's Office**INTEGRITY****PROFESSIONALISM****COMPASSION****TEAMWORK**BARNSTABLE  
MASHPEE

8

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DARTMOUTH-HARWICH  
DARTMOUTH